

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.**

In the Matter of the Application of
James Edmond Moniz
For Review of Action Taken By
FINRA
File No. _____

APPLICATION FOR REVIEW

On November 29, 2021, Mr. James Edmond Moniz (“Mr. Moniz”), a resident of Plymouth, Massachusetts, submitted a Statement of Claim to the Financial Industry Regulatory Authority (FINRA) Office of Dispute Resolution requesting a hearing for the expungement of one disclosure, Occurrence Number 1744093 (the “Occurrence”) from his Central Registration Depository (CRD) record. On December 17, 2021, Mr. Moniz’s Counsel received notice that FINRA’s Office of Dispute Resolution denied Mr. Moniz access to the FINRA forum for an arbitration proceeding on the expungement of the Occurrence (the “Notice”). The Notice stated that, “I hereby deny the use of FINRA’s arbitration forum for expungement related to Occurrence Number 1744093. An arbitrator in FINRA case number 17-01235 previously rendered an award denying expungement for Occurrence Number 1744093 in FINRA’s arbitration forum.” The Notice also stated that the occurrence is ineligible for expungement in FINRA’s arbitration forum pursuant to FINRA Rules 12203 or 13203 because the subject matter of the dispute is inappropriate. The Commission has jurisdiction to review this case, as FINRA prohibited Mr. Moniz from accessing a fundamentally important service that FINRA offers.

FINRA Rule 13203(a) does not provide for forum denial in this situation, nor did FINRA provide a clear rationale for its denial. FINRA Rule 13203(a) simply reads: “[t]he Director may decline to permit

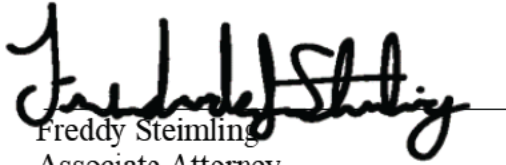
the use of the FINRA arbitration forum if the Director determines that, given the purposes of FINRA and the intent of the Code, the subject matter of the dispute is inappropriate, or that accepting the matter would pose a risk to the health or safety of arbitrators, staff, or parties or their representatives. Only the Director may exercise the authority under this Rule.” FINRA Rule 13203(a) is excessively vague and ambiguous. It offers no true guidance to FINRA Associated Persons as to what is and is not eligible subject matter for FINRA’s forum,

Similarly, given the great deal of discretionary judgement exercised on the part of the Director of Dispute Resolution, FINRA Rule 13203(a) invites inconsistent application. Mr. Moniz’s Counsel represented other Associated Persons in FINRA arbitration proceedings for expungement of disclosures arising from prior adverse arbitration awards, and Mr. Moniz’s Counsel succeeded on the merits in at least one of those proceedings. Denying the forum to Mr. Moniz, who is in a factually similar situation to the Associated Persons in previous cases, demonstrates that FINRA Rule 13203(a) is applied inconsistently.

There is no FINRA Rule codified by the SEC barring the arbitration for expungement of disclosures arising from prior adverse arbitration awards. If the SEC has not codified a rule to this effect, then FINRA’s Office of Dispute Resolutions’ decision to deny forum to Mr. Moniz is not supported by any SEC regulation. Therefore, the Commission may quickly dispense with the Office of Dispute Resolution’s purported rationale that FINRA’s forum is not available to Mr. Moniz because Mr. Moniz’s previous request for expungement of Occurrence Number 1744093 was denied in its arbitration forum.


Mr. Moniz submits this Application for Review requesting that the Commission give Mr. Moniz the opportunity to bring his claim for expungement of Occurrence Number 1744093 in FINRA’s forum, which Mr. Moniz is entitled to pursuant to FINRA Rules. Whether the Occurrence is eligible for expungement is a matter to be determined by a Panel in accordance with FINRA Rules 2080 and 13805.

Dated: January 12, 2022



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Respectfully submitted,



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